

not hold the asset account and no agreement exists between the service provider and the account at the institution. The transfers initiated by the service-providing institution are often cleared through an automated clearinghouse (ACH). This section divides the responsibilities between the two institutions with the greater responsibility placed on the service-providing institution.

The responsibilities of the service-providing institution are set forth in Section 205.14(b)(1) and (2). The duties of the account-holding institution are found in Section 205.14(c)(1) and (2).

Electronic Fund Transfer of Government Benefits – §205.15

Section 205.15 contains the rules that apply to electronic benefit transfer (EBT) programs. It provides modified rules on the issuance of access devices, periodic statements, initial disclosures, liability for unauthorized use, and error resolution notices.

Section 205.15(a) provides that a government agency is deemed to be a financial institution and subject to the regulation, if it directly or indirectly issues an access device to a consumer for use in initiating an EFT of government benefits from an account. Needs-tested EBT programs established under state or local law or administered by a state or local agency (such as food stamp programs) are exempt. Federally administered EBT programs and state and local employment-related EBT programs (such as retirement and unemployment benefits) remain covered by Regulation E. The term account means an account established by a government agency for distributing government benefits to a consumer electronically, such as through ATMs or point-of-sale terminals.

A government agency need not furnish the periodic statement required by §205.9(b) if the agency makes available to the consumer:

- the consumer's account balance through a readily available telephone line and at a terminal; and
- a written history of the consumer's account transactions that covers at least 60 days preceding the date of the consumer's oral or written request.

A government agency that does not furnish periodic statements in accordance with the above shall be subject to special modified requirements as set forth in §205.15(d).

Disclosures at Automated Teller Machines - §205.16

Section 205.16 requires disclosures at ATMs, before a fee can be charged to the consumer. This applies when a consumer

uses an ATM that is operated by a financial institution or other company that does not hold the consumer's account.

In these cases, the operator of the ATM must disclose the fact that a fee will be charged for providing EFT services or a balance inquiry, AND the amount of the fee. The ATM operator may post this information in prominent and conspicuous location on or at the ATM. Alternatively, the operator may provide the notice on the ATM screen or on paper, before the consumer is obligated to pay a fee.

An ATM operator may only impose a fee on a consumer initiating an EFT service or balance inquiry if the consumer is provided with the required notices AND elects to continue the transaction after receiving the notice.

Requirements for Electronic Communications – §205.17

Section 205.17 contains the rules for electronic delivery of required disclosures, when consumers have consented to receive them electronically. A financial institution that delivers disclosure electronically has two options under the regulation. The financial institution must:

1. Send the disclosure to the consumer's electronic address; or
2. Make the disclosure available at another location such as an Internet web site; AND
 - i. Alert the consumer of the disclosure's availability by sending a notice to the consumer's electronic address (or to a postal address, at the financial institution's option). The notice shall identify the account involved and the address of the Internet web site or other location where the disclosure is available; and
 - ii. Make the disclosure available for at least 90 days from the date the disclosure first becomes available or from the date of the notice alerting the consumer of the disclosure, whichever comes later.

When a disclosure provided by an electronic means is returned to a financial institution as undeliverable, the financial institution shall take reasonable steps to attempt redelivery using information in its files.

Suspension of Obligations – §912; Waiver of Rights – §914

Section 912 suspends, under certain conditions, a consumer's obligation to another person in the event a malfunction in an EFT system prevents payment to the person, until the malfunction is corrected and the EFT may be completed.